



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

Employers Health Insurance Company  
1100 Employers Boulevard  
Green Bay, WI 54944

dated January 30, 2001-February 6, 2001, and served upon the company on November 7, 2001, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 7<sup>th</sup> day of November, 2002.

Connie L. O'Connell  
Commissioner of Insurance

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**Report  
of the  
Market Conduct Examination of  
Employers Health Insurance Company  
Green Bay, Wisconsin  
January 30, 2001-February 6, 2001**

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February 6, 2001

**Bureau of Market Regulation**  
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Honorable Connie O'Connell  
Commissioner of Insurance  
121 East Wilson Street  
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a market conduct examination was made of Employers Health Insurance Company, 1100 Employers Blvd., Green Bay, WI 54344 on January 30-February 6, 2001. The report of this examination is hereby respectfully submitted:

## I. INTRODUCTION

Employers Health Insurance Company (Employers Health) was incorporated in 1968. Prior to 1995, Employers Health's business included Health Maintenance Organization (HMO) business. Effective January 1, 1995, EMPHESYS Wisconsin Insurance Company (EMPHESYS Wisconsin) assumed all of Employer Health's HMO business. EMPHESYS Wisconsin is a subsidiary of Employers Health. Both EMPHESYS Wisconsin and Employers Health are organized under EMPHESYS Financial Group, Inc., which is held by Humana, Inc., Louisville, KY. During 1998 and 1999 Employers Health was licensed to write in the District of Columbia and all states except New Hampshire, New York and Vermont. The major products marketed by Employers Health include small and large group health, group life, and long-term disability.

**Company Premium Information:**

In 1999 and 1998 the company reported aggregate written premium for all states in which it did business. Table A summarizes the total direct national premium written in 1999 and 1998 and compares it to the total direct premium written in Wisconsin.

**Table A: Summary of National Direct Premium Written to Wisconsin Direct Premium Written**

Year	National Premium	Wisconsin Premium	Wisconsin As a Percentage Of the National Premium
1999	\$2,489,690,375	\$162,619,132	6.53%
1998	\$1,853,576,617	\$160,826,940	8.68%

The majority of the premium written by the company in Wisconsin in 1999 and 1998 was group accident and health insurance. In 1998 the company ranked as the 8th largest writer of group accident and health insurance in Wisconsin. The total direct Wisconsin premium written for group accident and health insurance in 1998 was \$156,572,316.

## II. PURPOSE AND SCOPE

The period under review was January 1, 1999 through June 30, 2000. The examination was limited to verification of compliance with recommendations in the prior market conduct examination report adopted September 18, 1998 related to company operations in the following areas:

- Advertising
- Agent listings & terminations
- Claims
- Complaints & policyholder services
- Grievances
- New health business (large & small groups)
- Group life administration
- Policy forms
- Small employer rate regulations

In addition, the examination included a review of the company's compliance with managed care legislation effective January 1, 1999 and the status of compliance plans for requirements that become effective April 1, 2001. The examination also included a review of the company's involvement in the area of e-commerce.

### **Complaints**

OCI received 214 complaints against the company in 1999 and 230 complaints in 2000. The company was ranked #22 on the above average complaint list in 1999 for group accident and health insurance with a complaint ratio of .07, compared to the average of .06 complaints/\$100,000 of written premium for all group accident and health business in the state. The company did not appear on the above average complaint list in 1998.

The majority of all complaints received in 1999 and 2000 involve group accident and health insurance. The second highest number of complaints received related to the company's administration of self-funded health plans. Table B summarizes the complaints by line and year.

**Table B: Summary of Complaints\***

Complaints	Total		Underwriting		Marketing & Sales		Claims		Policyholder Service		Other	
	No.	% of Total	No.	% of Total	No.	% of Total	No.	% of Total	No.	% of Total	No.	% of Total
1999 Coverage												
Group Accident & Health	124	57.9%	0		1	100%	85	100%	2	100%	36	100%
All Others	90	42.1%	0		0		0		0		0	
Total	214	100%	0		1	100%	85	100%	2	100%	36	100%

Complaints	Total		Underwriting		Marketing & Sales		Claims		Policyholder Service		Other	
	No.	% of Total	No.	% of Total	No.	% of Total	No.	% of Total	No.	% of Total	No.	% of Total
2000 Coverage												
Group Accident & Health	118	67.4%	0		0		80	100%	4	100%	34	100%
All Others	57	32.6%	0		0		0		0		0	
Total	175	100%	0		0		80	100%	4	100%	34	100%

\*Calculations prior to end of year 2000.

**Grievances**

Employers Health’s grievance experience report filed with OCI for calendar year 1998 contained 74 benefit denial grievances. A total of 21 benefit denial determinations were either reversed or partially revised following the grievance procedure.

Employers Health’s grievance experience report filed with OCI for calendar year 1999 reported that the company received 305 benefit denial grievances which represents an increase of 231 grievances from 1998. A total of 182 grievances were either reversed or partially revised following the grievance procedure.

### III. SUMMARY OF PRIOR EXAMINATION RECOMMENDATIONS

The previous examination report, adopted September 18, 1998, contained 31 recommendations. The company's compliance with the prior recommendations is noted below:

1. Advertising: It is recommended Employers Health Insurance Company, when marketing its point-of-service products with another insurer, disclose in its advertising materials, which company underwrites which product, and that Employers Health revise all existing brochures used in such a manner to comply with s. Ins 3.27 (12), Wis. Adm. Code.

**Action: Compliance**

2. Advertising: It is recommended Employers Health Insurance Company discontinue referencing their dental business as a "Dental HMO", to comply with s. Ins 3.27 (9) Wis. Adm. Code.

**Action: Compliance**

3. Advertising: It is recommended Employers Health Insurance Company disclose their full company name on all advertising materials, to comply with s. Ins 3.27 (12), Wis. Adm. Code.

**Action: Compliance**

4. Advertising: It is recommended Employers Health Insurance Company attach a notation to each advertisement in its advertising file to indicate the manner and extent of distribution, as required by s. Ins 3.27 (28), Wis. Adm. Code

**Action: Compliance**

5. Advertising: It is recommended Employers Health Insurance Company include with each advertisement in their advertising file, a copy of the policy, amendment, rider, or endorsement form advertised, to comply with s. Ins 3.27 (28), Wis. Adm. Code.

**Action: Compliance**

6. Agent Listings and Terminations: It is recommended Employers Health Insurance Company revise its agent termination letters to include a formal written demand for the return of indicia of agency, from the terminated agent, as required by s. Ins 6.57 (2), Wis. Adm. Code.

**Action: Compliance**

7. Agent Listings and Terminations: It is recommended Employers Health Insurance Company report to OCI, on number OCI 11-011, the actual reason for the termination of an agent, and that the company maintain records regarding this reason, as required by s. Ins 6.57 (2), Wis. Adm. Code.

**Action: Compliance**

8. Claims: It is recommended Employers Health Insurance Company pay interest at a rate of 12% per annum on all previous paid claims where the examiners determined that interest

should have been paid, and on all claims not paid within 30 days after being furnished with written notice of the fact of a covered loss and of the amount of the loss, as required by s. 628.46, Wis. Stat.

**Action: Non- Compliance**

9. Claims: It is recommended Employers Health Insurance Company have a chiropractor review all chiropractic claims prior to denial, as required by s. 632.87 (3) (b) 1, Wis. Stat.

**Action: Compliance**

10. Complaints and Policyholder Services: It is recommended Employers Health Insurance Company, with respect to its preferred provider business, have a consistent, company wide definition of a complaint which complies with that defined under s. Ins 3.48 (2) (a), Wis. Adm. Code. (s. Ins 9.01 (3), Wis. Adm. Code)

**Action: Compliance**

11. Complaints and Policyholder Services: It is recommended Employers Health Insurance Company maintain, in a central location, a record of each complaint involving its preferred provider business which can be reviewed by OCI, as required by s. Ins 3.48 (7) (f) (1), Wis. Adm. Code. (s. Ins 9.33 (7) (a), Wis. Adm. Code)

**Action: Compliance**

12. Grievances: It is recommended Employers Health Insurance Company revise its EOB forms to clearly indicate that the appeal language which references a 60-day filing requirement relates to rights under ERISA, and add language that provides for the longer filing period allowed for grievances, in order to comply with s. Ins 3.48 (7), Wis. Adm. Code (now s. Ins 9.33 (2) Wis. Adm. Code)

**Action: Compliance**

13. Grievances: It is recommended Employers Health Insurance Company revise its provider contract form numbers 'CONT/PHYSPPO.SAM' and 'CONT/HOSPPO.SAM' to require that providers identify complaints and grievances, and to require that providers forward complaints and grievances to the company, in a timely manner, for recording and resolution as required by s. Ins 3.48 (7) (f) 2, Wis. Adm. Code. (s. Ins 9.33 (7) (b) Wis. Adm. Code.

**Action: Non-Compliance**

14. Grievances: It is recommended Employers Health Insurance Company maintain minutes for each grievance committee meeting held, to include such information as the meeting date, which grievances were heard, who was present, and the outcome of the grievance.

**Action: Compliance**

15. Grievances: It is recommended Employers Health Insurance Company resolve all grievances within 30 days and that the company provide written notice to the grievant, if a grievance cannot be resolved within 30 days, which includes notification that the grievance will not be resolved within 30 days, why additional time is necessary, and when the

grievance will be resolved, as required by s. Ins 3.48 (7) (c), Wis. Adm. Code. and s. Ins 9.33 (4) Wis. Adm. Code.)

**Action: Non-Compliance**

16. Grievances: It is recommended Employers Health Insurance Company order medical records as soon as grievances are received, if medical records are necessary to the grievance review, in order to provide for timely resolution of the grievance within 30 days.

**Action: Non-Compliance**

17. Grievances: It is recommended Employers Health Insurance Company maintain all information pertaining to a grievance in the grievance file, including letters sent to the grievant, in order to comply with s. Ins 3.48 (7) (f) 4, Wis. Adm. Code. (s. Ins 9.33 (7) (a), Wis. Adm. Code.

**Action: Non-Compliance**

18. Grievances: It is recommended Employers Health Insurance Company date stamp all grievances to document the beginning of the thirty-day resolution period.

**Action: Compliance**

19. Grievances: It is recommended Employers Health Insurance Company designate a person within the company who is responsible for the handling and monitoring of grievances, to ensure the grievance requirements of s. Ins 3.48 (7) Wis. Adm. Code (s. Ins 9.33 (5) Wis. Adm. Code) are met.

**Action: Non-compliance**

20. Grievances: It is recommended Employers Health Insurance Company revise its internal procedures for handling grievances to indicate the time frame within which specific actions must be taken (i.e. number of days within which grievances must be acknowledged, resolved, et. al), to ensure compliance with s. Ins 3.48 (7) Wis. Adm. Code. (s. Ins 9.33 (4) Wis. Adm. Code.

**Action: Non-Compliance**

21. New Business-Health, Large Group: It is recommended Employers Health Insurance Company improve documentation in all new business large group files to indicate the size of the employer, the size of the group covered by the policy number noted in the new business file, and the number of employees eligible under the group covered by the policy number.

**Action: Compliance**

22. New Business-Health, Small Group: It is recommended Employers Health Insurance Company provide rating and renewability information as a separate written notice, to the small employer group before an application for coverage is taken, as required by s. Ins 8.48 (1), Wis. Adm. Code.

**Action: Non-Compliance**

23. New Business-Health, Small Group: It is recommended Employers Health Insurance Company disclose to small employer groups, as a separate written notice, at the time of policy issuance, that fact that if the small employer employs less than 2 or more than 25 eligible employees during at least 50% of the number of weeks in any 12-month period, or moves the enterprise outside Wisconsin, the group will lose the protections of the small employer laws, as required by s. Ins 8.44 (2), Wis. Adm. Code.

**Action: Compliance**

24. New Business-Health, Small Group: It is recommended Employers Health Insurance Company revise its employer group application to identify the total number of eligible employees in the group, require that employer groups provide the insurer with appropriate documentation to support the number of eligible employees in the group, and that such supporting documentation comply with s. Ins 8.65 (1), Wis. Adm. Code.

**Action: Compliance**

25. New Business-Health, Small Group: It is recommended Employers Health Insurance Company not accept business from small employer groups that refuse to offer coverage to all eligible employees as defined in s. 635.02 (3f) Wis. Stat.

**Action: Compliance**

26. Policy Forms: It is recommended Employers Health Insurance Company revise its employer group application form number WI-55115-03 12/95 to provide for 60-day notification to the employer group, in the event Employers Health terminates the coverage, as required by s. 631.36 (4), Wis. Stat.

**Action: Compliance**

27. Policy Forms: It is recommended Employers Health Insurance Company revise its employee enrollment form number WI-55123-10 11/94 to appear in at least 10 point type font, as required by s. Ins 6.07 (4), Wis. Adm. Code.

**Action: Compliance**

28. Policy Forms: It is recommended Employers Health Insurance Company provide written notice to group enrollees of any increased policy benefits or other changes to their coverage, by providing them a new certificate or an endorsement or rider to their certificate which describes the coverage or benefit change, as soon as practicable after the coverage change, as required by s. 631.61, Wis. Stat.

**Action: Compliance**

29. Rate Regulations – Small Employer Group Health: It is recommended Employers Health Insurance Company improve its rating system, and conduct and submit to OCI, a compliance test report of their small employer group renewals within six months of the adoption of the examination report, to ensure that renewal rates comply with s. Ins 8.52 (3), Wis. Adm. Code.

**Action: Compliance**

30. Other Areas of the Company: It is recommended Employers Health Insurance Company revise its AD Administrative Processing Manual to provide life conversion coverage to individuals who are no longer eligible for coverage under a group contract or who are no longer eligible because the group terminated, after having provided coverage to the employee for at least five years, as required by s. 632.57, Wis. Stat.

**Action: Non-Compliance**

31. Other Areas of the Company: It is recommended Employers Health Insurance Company revise its AD Administrative Processing Manual by removing language that states life conversion coverage is not available to individuals with less than \$2,000 of group coverage, in order to comply with s. 632.57 (4), Wis. Stat.

**Action: Non-Compliance**

#### IV. CURRENT EXAMINATION FINDINGS

##### Advertising

The examiners reviewed a sample of 25 advertisements, primarily brochures, membership benefit materials and agent marketing materials, to verify compliance with the recommendations in the prior examination report. The company was found to be in compliance with the four (4) recommendations made in the prior examination report. However, eleven (11) items included in the advertising sample either did not pertain to Employers Health products or were not advertisements as defined by s. Ins 3.27 (5), Wis. Adm. Code.

1. It is recommended that Employers Health maintain in its advertising file only those items that pertain to Employers Health products and are advertisements as defined by s. Ins 3.27 (5), Wis. Adm. Code.

## **Agent Listings & Terminations**

The examiners reviewed a sample of 25 agent files on site and determined that the company complied with the two (2) recommendations made in the prior examination report related to agent listings and terminations. When the examiners reviewed the company agent data with OCI records, however, inconsistencies were noted.

The examiners compared a list, provided by the company, of all intermediary agents that represented the company at any time during the examination period to all agents appointed with the company according to OCI's records pursuant to s. Ins 6.57 (1), Wis. Adm. Code. The examiners also compared the agent of record for all new business written by the company during the examination period to those agents appointed with the company according to OCI's records.

The examiners found eleven (11) records where the company accepted an application for insurance from an intermediary agent prior to the date the intermediary agent was appointed with the company in accordance with ss. 628.11, Wis. Stat., and Ins 6.57 (1), Wis. Adm. Code. In response to this finding, the company advised that:

“Our commission system only produces commission payment for agents with an active status and current appointment and license data. An agent may not receive commissions until he/she is an appointed agent. The agents on the attached sheet were listed agents of record while their appointment was pending.”

Section Ins 6.57 (5), Wis. Adm. Code, provides that no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company.

The examiners found four (4) intermediary agents terminated by the company between 112 and 267 days prior to the review date that OCI records showed as currently appointed with the company pursuant to s. Ins 6.57 (1), Wis. Stat. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of appointment of individual intermediary-agent shall be filed

with the Office of the Commissioner of Insurance prior to or within 15 calendar days of the termination date.

The examiners found one (1) intermediary agent that the company records showed as currently representing the company and appointed pursuant to s. Ins 6.57 (1), Wis. Adm. Code, but OCI records indicate that this agent was not appointed with the company. Per documentation provided by the company, the listing for this agent was sent to OCI on December 29, 1999. During the examination, the company advised the examiners that it did not receive a verification of the appointment and that the lack of verification of the appointment was not detected during a comparison of appointments with OCI verification.

The examiners found one (1) intermediary agent that the company records showed as representing the company until October 27, 2000. OCI records showed that this agent's license was cancelled by OCI for failure to meet Wisconsin's continuing education requirements effective April 16, 1999. The company was notified of this agent's summary suspension in February of 1999 and of the revocation of the license in April of 1999. In addition, the agent would not have appeared on the company's annual renewal billing sent by OCI in January of 2000. Pursuant to s. 628.03 (1), Wis. Stat., no person may utilize the services of another as an intermediary if the person knows or should know that the other person does not have a license under ss. 628.04 or 628.09, Wis. Stat.

The examiners found:

One (1) intermediary agent that the company records showed as representing the company until August 9, 2000. OCI records showed that this agent's license was cancelled effective December 31, 1999, by OCI due to the agent's death.

One (1) intermediary agent that the company records showed as representing the company until August 23, 2000. OCI records showed that this agent's appointment was terminated by OCI effective October 18, 1999 when the agent voluntarily surrendered his resident intermediary license.

One (1) intermediary agent that the company records showed as currently representing the company. OCI records showed that this agent's appointment was terminated by OCI effective July 19, 1999 when the agent voluntarily surrendered his resident intermediary license.

These agents would not have appeared on the company's annual renewal billing sent in January of 2000. However, the company failed to notice that the agents were not on the billing and therefore did not investigate the reasons the agents were not included and promptly terminate the agents in accordance with s. Ins 6.57 (2), Wis. Stat.

It is recommended that the company:

2. Revise its procedures and systems to ensure that business is not accepted from an intermediary agent until the intermediary agent is listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is further recommended that the company revise its procedures to ensure that applications received from intermediary agents who are not appointed with the company are not accepted and promptly returned to the agent.
3. Promptly terminate agents pursuant to s. Ins 6.57 (2), Wis. Adm. Code.
4. Review and revise its procedures accordingly to ensure that agents whose licenses have been suspended and/or revoked by OCI are promptly terminated in accordance with s. Ins 6.57 (2), Wis. Adm. Code.
5. Carefully review and compare the annual renewal billing sent by OCI to the company's records, promptly initiate an investigation into the reason(s) an agent does not appear on the annual renewal billing when the company's records show the person is an active agent appointed to represent the company and take the appropriate action to rectify the situation.

## **Claims**

A recommendation in the prior examination report was that Employers Health pay interest on all overdue claims subject to the requirements of s. 628.46, Wis. Stat.

The examiners reviewed a sample of 100 paid medical claims for the period of review. Eleven (11) of these claims were not paid in 30 days and interest should have been paid as required by s. 628.46 Wis. Stat. The company discovered this fact when the claim sample was being pulled during the course of the examination and immediately paid the interest due on the 11 claims. One additional claim was identified that was subject to interest but interest

was not paid. In this case, a “delay” in payment letter was sent to the claimant by the benefit analyst who incorrectly concluded that because the delay letter was sent within 30 days, the claim was not subject to interest.

A recommendation in the prior examination report was that Employers Health have a chiropractor review all chiropractic claims prior to denial as required by s. 632.87 (3) (b) 1, Wis. Stat.

The examiners reviewed 100 denied chiropractic claims and although no exceptions were noted regarding the denial determination, it was noted that the subsequent letters sent to the patient and treating chiropractor per the requirements of s. 632.875 (2) Wis. Stat., are not entirely compliant. The letter does not contain a statement that an independent evaluation has been conducted, the letter provides no address for a patient to appeal the determination other than the address on the letterhead and although the letter contains a description of the insurer’s internal appeal process, the description does not refer to Employers Health’s grievance procedure. The appeal process described is based on ERISA guidelines.

6. It is again recommended that Employers Health improve its claims handling procedures to better ensure the identification of claims subject to payment of interest and promptly pay interest as required by s. 628.46 Wis. Stat.
7. It is recommended that Employers Health revise letters sent to providers and patients per the requirements of s. 632.875 (2) Wis. Stat., include a statement that an independent evaluation has been conducted, provide in the body of the letter an address to appeal the determination, and provide information on Employers Health’s grievance procedure rather than ERISA appeal guidelines.

### **Complaints and Policyholder Services**

The examiners reviewed Employers Health’s complaints and policyholder services procedures and practices, and verified that the company has complied with the two (2) recommendations in the prior examination report related to this area. No exceptions were noted.

## **Grievances**

The examiners reviewed the company's grievance procedures and practices, provider contracts and a sample of 50 grievance files to verify compliance with the prior examination recommendations. The company is not in complete compliance with six (6) of the nine (9) prior examination recommendations.

A recommendation in the prior examination report was that Employers Health revise its provider contracts to require that providers identify complaints and grievances, and to require that providers forward complaints and grievances to the company in a timely manner, for recording and resolution as required by s. Ins 3.48 (7) (f) 2, Wis. Adm. Code.

The examiners reviewed all provider contracts used during the period of review. These contracts included: Employers Preferred Care (Humana) Agreements (four separate agreements) Preferred One Rental Agreement, Touchpoint Rental Agreement, Private Health Care Systems (PHCS) Choicecare Physician Agreement (formerly PHCS) and PCS Health Systems, Inc., Managed Pharmaceutical Benefit Agreement. All of the agreements are rental agreements with the exception of the drug vendor agreement and Employers Preferred Care (Humana) Agreements which is Employers Health's proprietary network.

With the exception of the Preferred One Rental Agreement, none of the contracts had adequate provisions regarding the requirement that providers identify complaints and grievances and forward them to EHIC in a timely manner for recording and resolution, as required by s. Ins 9.33 (7) (b) Wis. Adm. Code. Rather, the contracts state that the provider shall, "establish and manage a system for the receipt and resolution of Humana Member inquiries, complaints and grievances. See attachment F-1 for Grievance Procedure." The attached Employers Health Grievance Procedure does not reference the requirement.

Additionally, one of the four Employers Preferred Care (Humana) Agreements does not identify Employers Health as a contracting party. The agreement only refers to Humana Insurance Company, Humana Wisconsin Health Organization Insurance Corporation,

EmpheSys Wisconsin Insurance Company and Network EPO, Inc. The PCS Health Systems, Inc., pharmacy vendor contract also does not identify EHIC as a contracting party, only Humana.

8. It is again recommended that Employers Health revise all of its provider contracts to require that providers identify complaints and grievances, and to require that providers forward complaints and grievances to the company, in a timely manner, for recording and resolution as required by s. Ins 9.33 (7) (b) Wis. Adm. Code.
9. It is recommended that Employers Health revise its provider contracts to identify Employers Health as a contracting party.

A recommendation in the prior examination report was that, if medical records were needed to consider a grievance, the records should be requested upon receipt of the grievance in order to resolve the grievance within 30 days. Employers Health reported that records are requested within 8-10 days after receiving the grievance but the company could not provide the examiners with a written procedure which reflects this practice.

10. It is again recommended that Employers Health order medical records as soon as grievances are received, if medical records are necessary to the grievance review, in order to provide for timely resolution of the grievance within 30 days, as required by s. Ins 9.33 (4) Wis. Adm. Code.

A recommendation in the prior examination report was that Employers Health designate a person within the company who is responsible for the handling and monitoring of grievances. Employers Health reported that, although one individual or entity is designated as being responsible for the handling and monitoring of grievances, it has developed procedures in the various operational areas to oversee the grievance process and put in place a central tracking system to record all grievances.

11. It is again recommended that Employers Health designate a person within the company who is responsible for the handling and monitoring of grievances, to ensure the grievance requirements of s. Ins 9.35 (5) Wis. Adm. Code are met.

The prior examination report recommended that Employers Health resolve all grievances within 30 days and that if the grievance can not be resolved in 30 days, the company must provide written notification to the grievant explaining why additional time is needed and

when the grievance will be resolved pursuant to the requirements of s. Ins 3.48 (7), Wis. Adm. Code. Three (3) of the grievance files reviewed were not resolved within 30 days and did not contain the required notification.

12. It is again recommended that Employers Health resolve all grievances within 30 days and that the company provide written notice to the grievant, if a grievance will not be resolved within 30 days, why additional time is necessary, and when the grievance will be resolved, as required by s. Ins 9.33 (4) Wis. Adm. Code.

The prior examination report recommended that Employers Health maintain all information pertaining to a grievance in the grievance file pursuant to the requirements of s. Ins 3.48 (7) (f) 4, Wis. Adm. Code. Two (2) of the grievance files reviewed did not have resolution letters to the grievant.

13. It is again recommended that Employers Health maintain all information pertaining to a grievance in the grievance file, including letters sent to the grievant, in order to comply with s. Ins 9.33 (7) (a) Wis. Adm. Code.

The company was unable to produce documentation for three (3) grievance files to show when the grievance was received at the company.

14. It is recommended that Employers Health retain all grievance information and documentation for a period of three (3) years as required by s. 632.83 (3) (e), Wis. Stat.

The prior examination report recommended that Employers Health revise its internal grievance procedures to indicate the time frames within which specific actions must be taken. The current procedures do not consistently reflect the requirement that grievances must be acknowledged within five business days of receipt pursuant to the requirements of s. Ins 9.33 (3), Wis. Adm. Code, and that urgent care grievances be resolved with 72 hours of receipt pursuant to s. Ins 9.33 (6) Wis. Adm. Code.

15. It is again recommended that Employers Health revise its internal procedures for handling grievances to indicate the time frames within which specific actions must be taken to ensure compliance with s. Ins 9.33 (3) and (6) Wis. Adm. Code.

Three (3) grievance files reviewed were not resolved in favor of the grievant and it was not evident that a grievance committee meeting notice was sent to the grievant pursuant to the requirements of s. Ins 9.33 (5) (b) Wis. Adm. Code.

16. It is recommended that Employers Health improve its existing procedures to ensure that grievance committee meeting notices are sent to grievants pursuant to the requirements of s. Ins 9.33 (5) (b) Wis. Adm. Code and that a copy of the notice be kept in the grievance file.

The prior examination report recommended that Employers Health revise its EOB forms to clearly indicate that the 60-day appeal filing requirement relates to rights under ERISA, and to add language that provides for a longer filing period allowed for grievances under s. Ins 3.48 (7), Wis. Adm. Code. The Company agreed to revise the language to read: "Your appeal under the Employee Retirement Income Security Act (ERISA) must be requested and submitted in writing within sixty (60) days of receiving this statement. We will review all information and send a written notification within sixty (60) days of your request. Your state may provide a longer period of time for filing a complaint or grievance and require resolution of those complaints within a shorter period of time. Please consult your certificate of insurance or contact us by using our toll free number 1-800-558-4444 for information regarding the requirements of your state." This exact language is included on the current EOB except that the words "Your State" reads "Some states." The company, however, continues to use claim denial letters that reference the 60 day ERISA appeal language without the disclosure that some states may have different requirements. Two of the three claim denial letters used by the company have this defect.

17. It is recommended that Employers Health revise its claim denial letters to disclose that some states, including Wisconsin, may have time frame requirements that differ from the ERISA guidelines, pursuant to s. Ins 9.33 (2), Wis. Adm. Code.

### **New Business Health-Large Group**

The examiners' review of a sample of 50 large group files verified compliance with the one recommendation made in the prior examination report in this area.

## **New Business Health-Small Group**

The examiners' review of the small employer group samples verified that Employers Health is in compliance with all recommendations in the prior examination report in this area except for:

A recommendation in the prior examination report was that Employers Health provide rating and renewability information as a separate written notice, to the small employer group before an application for coverage is taken, as required by s. Ins 8.48 (1), Wis. Adm. Code. The examiners reviewed 48 issued files and 45 non-issued files and found that 5 files did not contain a copy of the required form.

The examiners also found that information contained in the employer application forms of three (3) files was incomplete. The Eligibility Section of the Wisconsin Employer Group Application Form did not indicate the total number of employees on the payroll, the number of permanent full time employees eligible for coverage and the number of employees enrolling.

18. It is again recommended that Employers Health provide rating and renewability information as a separate written notice, to the small employer group before an application for coverage is taken, as required by s. Ins 8.48 (1) Wis. Adm. Code.

19. It is recommended that Employers Health develop procedures to ensure that information on employer applications is complete, in order to comply with s. Ins 8.65, Wis. Adm. Code.

## **Small Employer Rate Regulation**

OCI's actuary reviewed Employers Health's small employer rate practices and procedures and verified that the company is in compliance with the prior examination recommendation regarding the use of renewal rates that comply with s. Ins 8.52 (3), Wis. Adm. Code.

## **Group Life Insurance-Administration**

A recommendation in the prior examination report was that Employers Health revise its AD Administrative Processing Manual to provide life conversion to individuals no longer eligible for coverage under a group contract or if the group terminated after five years of coverage, as required by s. 632.57, Wis. Stat. The manual, as revised, states that for the individual to be eligible for life conversion, the individual terminated had to be covered for at least three years. This requirement is in violation of s. 632.57 (2) Wis. Stat. The manual also states that if the insured is 86 or older the individual is not eligible for life conversion. This requirement is in violation of s. 632.57 (2) Wis. Stat. The revised manual has the correct language required by s. 632.57 (4) Wis. Stat., for life conversion if the group terminates.

A recommendation in the prior examination report was that Employers Health remove language from its AD Administrative Processing Manual that states life conversion coverage is not available to individuals with less than \$2000 worth of group coverage to comply with s. 632.57 (4) Wis. Stat. Although a portion of the manual was revised to comply with the recommendation, in the Life Conversion Request Form portion of the manual it states that if the insured has less than \$2000 worth of coverage, the conversion request should be denied.

20. It is again recommended that Employers Health revise its AD Administrative Processing Manual to provide life conversion coverage to individuals who are no longer eligible for coverage under a group contract or who are no longer eligible because the group terminated, after having provided coverage to the employee for at least five years, as required by s. 632.57, Wis. Stat.
21. It is again recommended that Employers Health revise its AD Administrative Processing Manual by removing language that states life conversion coverage is not available to individuals with less than \$2000 of group coverage, in order to comply with s. 632.57 (4) Wis. Stat.

## **Policy Forms**

The examiners reviewed the two policy forms that were the subject of recommendations in the prior examination report, Group Application form number WI-55115-03 and Employee Enrollment form WI-55123-10, and verified compliance with the three (3)

recommendations in the prior report related to this area. The examiners also reviewed the 14 policy forms used during the period of review that were “deemed” approved by OCI. No exceptions were noted.

### **Additional Areas of Review**

#### **Managed Care Compliance Programs:**

Employers Health reported that it will be in compliance with the quality assurance requirements of ss. Ins 9.40 (7) (a) & (b) and 9.40 (3) (d) 1., Wis. Adm. Code by the effective date of April 1, 2001. The company also reported that it has identified the personnel that will have direct responsibility for clinical protocols, quality assurance activities and utilization management policies to comply with the requirements of s. Ins 9.40 (3) (b) 2, Wis. Adm. Code which becomes effective October 1, 2002.

Employers Health is not in compliance with s. Ins 9.42, Wis. Adm. Code which requires insurers writing managed care plans, preferred provider plans and limited health service insurers to establish compliance programs by March 1, 2000 in order to verify compliance with applicable provisions of Ch.609, Wis. Stats. EHIC reported that it is “currently working” on implementing the compliance program.

22. It is recommended that Employers Health Insurance Company implement a compliance program to ensure that the company complies with all applicable provisions of Ch. 609, Wis. Stat. regarding its preferred provider plans.

#### **E-Commerce:**

Employers Health has a corporate website at [www.Humana.com](http://www.Humana.com). The company’s Internet Development team and Information Technology Department has oversight responsibility for the website. The company produces several weekly reports for use by management in monitoring website use by the public. Currently, the primary use of the website is to provide product and service information to consumers and insureds through a variety of links. Plan summaries and marketing materials are available to agents in a secured portion of the site.

Consumers may download applications from the website but can not electronically submit applications to the company. The company has no plans to market via the internet.

Employers Health does not require agents to report whether they have a personal website used for insurance business. Although Employers Health does not allow agents to use company materials on their personal website without prior approval, there is no oversight by the company on the use of personal websites to verify compliance by agents. The company is currently developing procedures regarding agent advertising on the Internet.

23. It is recommended that Employers Health develop written procedures regarding the use of personal websites by agents for insurance related business, including advertising, and that any prohibitions be reflected in the agent's contract.

#### **Other**

In the course of reviewing materials related to different operational areas of the company, the examiners noted instances in which the company does not adequately identify itself as Employers Health Insurance Company in correspondence to insureds. For example, one letter the Underwriting Department sends to groups to approve coverage, does not even reference Employers Health, only Humana.

24. It is recommended that Employers Health replace existing letters and letterheads that do not clearly and adequately identify the company as the insurer, to comply with s. 628.34 (1), Wis. Stat. and s. Ins 3.27 (12), Wis. Adm. Code.

## **V. SUMMARY OF RECOMMENDATIONS**

### **Advertising**

1. It is recommended that Employers Health maintain in its advertising file only those items that pertain to Employers Health products and are advertisements as defined in s. Ins 3.27 (5), Wis. Adm. Code.

### **Agent Listings & Terminations**

2. It is recommended that Employers Health revise its procedures and systems to ensure that business is not accepted from an intermediary agent until the intermediary agent is listed with the company in accordance with s. Ins 6.57 (1), Wis. Adm. Code. It is further recommended that the company revise its procedures to ensure that applications received from intermediary agents who are not appointed with the company are not accepted and promptly returned to the agent.
3. It is recommended that Employers Health promptly terminate agents pursuant to s. Ins 6.57 (2), Wis. Adm. Code.
4. It is recommended that Employers Health review and revise its procedures accordingly to ensure that agents whose licenses have been suspended and/or revoked by OCI are promptly terminated in accordance with s. Ins 6.57 (2), Wis. Adm. Code.
5. It is recommended that Employers Health carefully review and compare the annual renewal billing sent by OCI to the company's records, promptly initiate an investigation into the reason(s) an agent does not appear on the annual renewal billing when the company's records show the person is an active agent appointed to represent the company and take the appropriate action to rectify the situation.

### **Claims**

6. It is again recommended that Employers Health improve its claims handling procedures to better ensure the identification of claims subject to payment of interest and promptly pay interest as required by s. 628.46 Wis. Stat.
7. It is recommended that Employers Health revise letters sent to providers and patients per the requirements of s. 632.875 (2) Wis. Stat., include a statement that an independent evaluation has been conducted, provide in the body of the letter an address to appeal the determination and provide information on Employers Health's grievance procedure rather than ERISA appeal guidelines.

### **Grievances**

8. It is again recommended that Employers Health revise all of its provider contracts to require that providers identify complaints and grievances, and to require that providers forward complaints and grievances to the company, in a timely manner, for recording and resolution as required by s. Ins 9.33 (7) (b) Wis. Adm. Code.

9. It is recommended that Employers Health revise its provider contracts to identify Employers Health as a contracting party.
10. It is again recommended that Employers Health order medical records as soon as grievances are received, if medical records are necessary to the grievance review, in order to provide for timely resolution of the grievance within 30 days, as required by s. Ins 9.33 (4), Wis. Adm. Code.
11. It is again recommended that Employers Health designate a person within the company who is responsible for the handling and monitoring of grievances, to ensure the grievance requirements of s. Ins 9.35 (5) Wis. Adm. Code are met.
12. It is again recommended that Employers Health resolve all grievances within 30 days and that the company provide written notice to the grievant, if a grievance will not be resolved within 30 days, why additional time is necessary, and when the grievance will be resolved, as required by s. Ins 9.33 (4) Wis. Adm. Code.
13. It is again recommended that Employers Health maintain all information pertaining to a grievance in the grievance file, including letters sent to the grievant, in order to comply with s. Ins 9.33 (7) (a) Wis. Adm. Code.
14. It is recommended that Employers Health retain all grievance information and documentation for a period of three (3) years as required by s. 632.83 (3) (e), Wis. Stat.
15. It is again recommended that Employers Health revise its internal procedures for handling grievances to indicate the time frames within which specific actions must be taken to ensure compliance with s. Ins 9.33 (3) and (6), Wis. Adm. Code.
16. It is recommended that Employers Health improve its existing procedures to ensure that grievance committee meeting notices are sent to grievants pursuant to the requirements of s. Ins 9.33 (5) (b) Wis. Adm. Code and that a copy of the notice be kept in the grievance file.
17. It is recommended that Employers Health revise its claim denial letters to disclose that some states, including Wisconsin, may have time frame requirements that differ from the ERISA guidelines, pursuant to s. Ins 9.33 (2), Wis. Adm. Code.

#### **New Business Health-Small Group**

18. It is again recommended that Employers Health provide rating and renewability information as a separate written notice, to the small employer group before an application for coverage is taken, as required by s. Ins 8.48 (1) Wis. Adm. Code.
19. It is recommended that Employers Health develop procedures to ensure information on employer applications that applications is complete, in order to comply with s. Ins 8.65, Wis. Adm. Code.

### **Group Life Insurance-Administration**

20. It is again recommended that Employers Health revise its AD Administrative Processing Manual to provide life conversion coverage to individuals who are no longer eligible for coverage under a group contract or who are no longer eligible because the group terminated, after having provided coverage to the employee for at least five years, as required by s. 632.57, Wis. Stat.
21. It is again recommended that Employers Health revise its AD Administrative Processing Manual by removing language that states life conversion coverage is not available to individuals with less than \$2000 of group coverage, in order to comply with s. 632.57 (4) Wis. Stat.

### **Managed Care Compliance Programs**

22. It is recommended that Employers Health Insurance Company implement a compliance program to ensure that the company complies with all applicable provisions of Ch. 609, Wis. Stat. regarding its preferred provider plans.

### **E-Commerce**

23. It is recommended that Employers Health develop written procedures regarding the use of personal websites by agents for insurance related business, including advertising, and that any prohibitions be reflected in the agent's contract.

### **Other**

24. It is recommended that Employers Health replace existing letters and letterheads that do not clearly and adequately identify the company as the insurer, to comply with s. 628.34 (1), Wis. Stat. and s. Ins 3.27 (12), Wis. Adm. Code.

## **VI. CONCLUSION**

The prior examination contained thirty-one (31) recommendations. Employers Health was found to be in compliance with twenty-one (21) recommendations, and in non-compliance with ten (10) recommendations. The examiners made fourteen (14) new recommendations in 7 different areas.

## VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, state of Wisconsin, participated in the examination.

<b>Name</b>	<b>Title</b>
Renee Fabry	Insurance Examiner
John Kitslaar	Insurance Examiner
Jo LeDuc	Insurance Examiner
Marcia Zimmer	Insurance Examiner

Respectfully Submitted,

Pam Ellefson  
Examiner-in-Charge  
Bureau of Market Regulation